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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,652	04/02/2004	Matthew K. Parker		9667

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EXAMINER

BOCHNA, DAVID

ART UNIT PAPER NUMBER

3679

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/816,652

Applicant(s)

PARKER, MATTHEW K.

Examiner

David E. Bochna

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-17 and 21-23 is/are rejected.
- 7) ☒ Claim(s) 18-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, filed 10/26/05, with respect to the rejection(s) of claim(s) 12-17 and 21-23 under Mollick et al. have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Parks. Due to the new grounds of rejection the finality of the last office action has been withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 12-17 and 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Parks '681.

In regard to claims 12, 15 and 21, Parks discloses (fig. 2a) a shield assembly for wall penetration of flexible tubing, comprising:

an elongated sleeve 40 comprised of a tube or channel having a first side (side shown in fig. 2a), a second side (backside as shown in fig. 2a), an upper side (top of 40 and 62), and a lower side 10 and a first open end (top of 40) opposed to a second open end (hole for 30) whereby flexible tubing 52 may be installed into the first open end, pass through the tube or channel, and exit the second open end;

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said elongated sleeve being of predetermined length sufficient to penetrate an exterior frame wall 54 through any exterior sheathing and building siding;

said elongated sleeve being of predetermined inside dimensions to accommodate one or more flexible tubes;

an attachment plate 50 of sufficient strength to resist deformation due to manually applied pressure;

said attachment plate having one or more attachment holes for installation of mounting hardware 58;

said attachment plate 50 being affixed to one of the first or second sides (see fig. 2b where the attachment plate 50 is attached to all sides) of the elongated sleeve such that the one or more attachment holes are oriented to permit installation of attachment hardware into a building-framing stud; and

In regard to claims 13, 16 and 22, wherein geometric angle between the attachment angle and the elongated tube is between twenty (20) degrees and seventy five (75) degrees.

In regard to claims 14, 17 and 23, wherein the elongated sleeve is comprised of durable material selected from the group comprising at least one of metal, polyvinyl chloride (PVC) or plastic.

4. Claims 12-17 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Horrigan.

In regard to claims 12, 15 and 21, Horrigan discloses (fig. 1) a shield assembly for wall penetration of flexible tubing, comprising:

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an elongated sleeve 13 comprised of a tube or channel having a first side (side shown in fig. 1), a second side (backside as shown in fig. 1), an upper side (top of 13), and a lower side (bottom of 10) and a first open end (top of 13) opposed to a second open end (bottom of 10) whereby flexible tubing may be installed into the first open end, pass through the tube or channel, and exit the second open end;

said elongated sleeve being of predetermined length sufficient to penetrate an exterior frame wall 20 through any exterior sheathing 12 and building siding;

said elongated sleeve being of predetermined inside dimensions to accommodate one or more flexible tubes;

an attachment plate 14 of sufficient strength to resist deformation due to manually applied pressure;

said attachment plate 14 having one or more attachment holes 11 for installation of mounting hardware;

said attachment plate 14 being affixed to one of the first or second sides (see fig. 1) of the elongated sleeve such that the one or more attachment holes are oriented to permit installation of attachment hardware into a building-framing stud 20; and

In regard to claims 13, 16 and 22, wherein geometric angle between the attachment angle and the elongated tube is between twenty (20) degrees and seventy five (75) degrees.

In regard to claims 14, 17 and 23, wherein the elongated sleeve is comprised of durable material selected from the group comprising at least one of metal, polyvinyl chloride (PVC) or plastic.

Allowable Subject Matter

5. Claims 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments with respect to claims 12-17 and 21-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rogers, Jr. et al. disclose similar couplings common in the art.

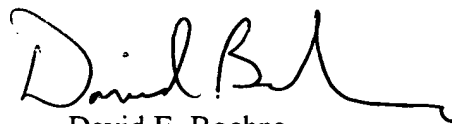
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Bochna whose telephone number is (571) 272-7078. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "David Bochna", with a long horizontal flourish extending to the right.

David E. Bochna
Primary Examiner
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